

The 9th November, 1981

No. 9(1)81-6Lab 12357.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workmen and the management of M/s Busching Schmitz Pvt. Ltd., Mathura Road, Faridabad:—

BEFORE SHRIM. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA,
FARIDABAD

Reference No. 104 of 1979

between

THE WORKMEN AND THE MANAGEMENT OF M/S BUSCHING SCHMITZ PVT. LTD.,
MATHURA ROAD, FARIDABAD.

Present:—Shri Yoginder Singh for the workmen.
Shri H.R. Dua for the management.

AWARD

By order No. FD/13663, dated 23rd March, 1979, the Governor of Haryana referred the following disputes between the management of M/s Busching Schmitz Pvt. Ltd., Mathura Road, Faridabad and its workmen, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

- (1) Whether the workmen are entitled to the grant of bonus for the year 1977-78? If so, with what details?
- (2) Whether the workmen should be supplied with uniforms? If so, with what details?
- (3) Whether the workmen are entitled to the grant of cycle allowance? If so, with what details?
- (4) Whether the workmen are entitled to the grant of house-rent allowance? If so, with what details?

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, following issues were framed:—

- (1) Whether the demands have been properly espoused by the substantial number of workmen?
- (2) Whether the management is not in a position to bear the additional burden? If so, to what effect?
- (3) Whether the workmen are entitled to the grant of bonus for the year 1977-78? If so, with what details?
- (4) Whether the workmen should be supplied with uniforms? If so, with what details?
- (5) Whether the workmen are entitled to the grant of cycle allowance? If so, with what details?
- (6) Whether the workmen are entitled to the grant of house-rent allowance? If so, with what details?

And the case was fixed for the evidence of the workmen. The representative for the workmen made a statement that he produced Ex. W-1 to W-3 on issue of expenditure. On other issues he took many opportunities and finally examined Shri Chander Chandra V.W-1 who stated that in the year 1977-78 he worked in this company. Financial position of the company was very good at that time. The company used to give uniforms but stopped it later on. Cycle allowance, house-rent allowance was not being paid by the company. In cross-examination he stated that he was in the company's service from 1st November, 1973 to 20th August, 1980. At the time of his termination of service there were only 8-10 workers who were also removed from service later on. In the year 1978 there were 56 workers in the company. He denied the suggestion that the factory had been closed. I now give my finding issue-wise:

Issue No. 1.—No evidence was led by the management on this issue, whereas the workman produced Ex. W-3 signed by many workers. Believing *x-p* evidence, I decide this issue in favour of the workmen.

Issue No. 2.—I have gone through the balance sheet and written statement of the management. In the written statement the management averred that the company was under heavy losses and was not in a position to bear any burden. It was argued by the learned representative for the management that the factory now stands

closed. WW-1 has admitted that previously the management employed about 50 workmen and there were only about 10 workers in the year 1980. He denied the suggestion that the factory now stood closed. He pleaded ignorance to the question that there was no power connection at present. I have gone through the balance sheet and profit and loss account and find that the company was under loss. No evidence was led by the workmen to rebut the balance sheet. In the circumstances, this issue is decided in favour of the management.

Issues No. 3 to 6.—As issue No. 1 has been decided in favour of the management hence these issues need no decision.

While answering the reference I give my award that as per findings given by me on issue No. 1 the workmen are not entitled to any relief. I order accordingly.

The 30th September, 1981.

M.C. BHARDWAJ,

Presiding Officer, Industrial Tribunal,
Haryana, Faridabad.

No. 907, dated 1st October, 1981

Forwarded (four copies) to the Secretary to Government, Haryana, Labour & Employment Departments Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

M.C. BHARDWAJ,
Presiding Officer, Industrial Tribunal,
Haryana, Faridabad.

No. 9 (1)-81-6Lab/12359.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s Indo Malt (P) Ltd. Murthal, District Sonapat.

BEFORE SHRI M.C. BHARDWAJ, PRESIDING OFFICER INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD

Reference No. 283 of 1979

between

The workmen and the management of M/s Indo Malt (P) Limited, Murthal, District Sonapat.

Present. None, for the workmen.

S. C. R. G. P. S. for the management.

AWARD

By order No. SPT/29-79/40343, dated 14th September, 1979 the Governor of Haryana referred the following dispute between the management of M/s. Indo-Malt (P) Limited, Murthal District Sonapat and its workmen, to this Tribunal for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :

- (1) Whether the workmen are entitled to the grant of bonus for the year 1977-78 ? If so with what details ?
- (2) Whether the workmen are entitled to the grant of house rent allowance ? If so, with what details ?
- (3) Whether the workmen are entitled to the grant of cycle allowance ? If so, with what details ?
- (4) Whether the categorisation should be done according to the nature of work performed ? If So, with what details ?

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed pleadings. On the pleadings of the parties, following issues were framed on 16th November, 1979—

- (1) Whether the demands have been properly espoused by a substantial number of workmen ?
- (2) Whether the reference is hit by a settlement dated 5th February, 1979 ?

- (3) Whether the workmen are entitled to the grant of bonus for the year 1977-78 ? If so, with what details ?
- (4) Whether the workmen are entitled to the grant of house rent allowance ? If so, with what details ?
- (5) Whether the workmen are entitled to the grant of cycle allowance ? If so, with what details ?
- (6) Whether the categorisation should be done according to the rule of 1976 ? If so, with what details ?

And the case was fixed for the evidence of the workmen, who examined Shri Honsla Chobe as WW-1, Shri Jag Mohan as WW-2, Shri Subhash as WW-3, Shri Sita Ram WW-4, Shri Raghu Nath as WW-5 and closed their case on issue number 1. Then the case was fixed for the evidence of the management. On the last two dates there was none present for the workman. The management was present. The management examined Shri Ashok, Chawla their Managing Director as MW-1 and closed their case. *Ex-parte* arguments were heard. Now I give my finding issue-wise :

Issue No. 1.—WW-1 stated that he was Cashier of the union. A demand notice was served upon the management. Form F also filled in which was signed by 20 workmen employed with the management. He further stated that all the workers who had signed the demand notice were removed from service by the management. In cross-examination he stated that demand notice dated 14th October, 1978 was settled after two months. The meeting was held in September at about 4 P.M. Shri Jia Lal General Secretary and Shri Hawa Singh were President of the union. Both of them were still living. He admitted his signatures on Ex. M-1. WW-2 stated that on the demand notice dated 14th October, 1978 a settlement was arrived at in the presence of Conciliation Officer. He admitted his signatures on Ex. M-1. In cross examination he stated that meeting was held in November 1978. Meeting was held on the G.T. Road in a Dharmshala. The management was presided over by Shri Jia Lal. WW-3 stated that a demand notice was given on 14th October, 1978 which was settled at the time of conciliation. In cross examination he stated that meeting was held at 4.00 P.M. in front of the factory. The meeting was not held in Dharmshala. It was presided over by Shri Raghu Nath. The proceedings were recorded on a paper. No signatures were made in register. WW-4 stated that the demand notice dated 14th October, 1980 were settled at the time of conciliation proceedings. WW-5 stated that meeting was called by the Conciliation Officer by Ex. W-1. Settlement Ex. W-2 was made in the conciliation. Meeting was held on 14th October, 1978. He stated that he was President of the union at that time. In cross examination he stated that the meeting was presided over by Shri Hawa Singh. The meeting was held in the central quarter. He stated that he did not know what was form "F" but he stated that all the workers except 2-3 signed form "F". He further stated that Shri Jag Mohan WW-2 was not present in the meeting.

I have considered the statements of the workmen and find a great discrepancy about holding of meeting having taken place for espousal of the demands as WW-1 has stated that the meeting was held in open ground in the month of September whereas WW-2 stated that it was held in November 1978 on G.T. Road in a Dharmshala. WW-3 stated that it was held in front of factory and not in the Dharmshala, whereas WW-5 stated that it was held in a room of central quarter. There is also discrepancy about the person who presided over the meeting. WW-1 stated that it was presided over by Shri Hawa Singh, WW-2 stated that it was presided by Shri Jia Lal. WW-3 stated that it was presided by Shri Raghu Nath and WW-5 stated that it was presided by Shri Hawa Singh. No document was produced to show that any resolution was passed in the meeting, therefore, I find that the workmen have failed to prove espousal by holding a meeting for raising their demands. This issue is decided against the workmen.

Issue No. 2 to 6.—As issue No. 1 has been decided against the workmen, therefore, these issues need no decision.

While answering the reference I give my award that the reference fails on issue No. 1 and the workmen are not entitled to any relief in this reference. I order accordingly.

The 30th September, 1981.

M. C. BHARDWAJ,

Presiding Officer, Industrial Tribunal,
Haryana, Faridabad.

No. 909, the 1st October, 1981

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1948.

M. C. BHARDWAJ,

Presiding Officer, Industrial Tribunal,
Haryana, Faridabad.